

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

Recommended Decision on 28 U.S.C. § 2255 Motion

Robert Anderson has filed a motion pursuant to 28 U.S.C. § 2255 claiming ineffective assistance of counsel because "counsel failed to file petitioner['s] requested direct appeal." On August 15, 2005, I entered an order to show cause because, "nowhere in the motion does Anderson set forth any facts suggesting the invalidity of the Appeal Waiver set forth in paragraph three of his Agreement to Plead Guilty." I gave Anderson until September 15, 2005, to show cause why this petition should not be subject to summary dismissal pursuant to Rule 4 of the Rules Governing Section 2255 Proceedings. Anderson has not filed a response to this order and I interpret his silence as a concession that the waiver is valid. Accordingly, I recommend that the Court **DENY** Anderson 28 U.S.C. § 2255 relief.

NOTICE

A party may file objections to those specified portions of a magistrate judge's report or proposed findings or recommended decisions entered pursuant to 28 U.S.C. § 636(b)(1)(B) for which *de novo* review by the district court is sought, together with a supporting memorandum, within ten (10) days of being served with a copy thereof. A responsive

memorandum shall be filed within ten (10) days after the filing of the objection.

Failure to file a timely objection shall constitute a waiver of the right to *de novo* review by the district court and to appeal the district court's order.

September 19, 2005.

/s/ Margaret J. Kravchuk
U.S. Magistrate Judge